

VZCZCXYZ0000
OO RUEHWEB

DE RUEHBU #0078/01 0172059
ZNY CCCCC ZZH
O 172059Z JAN 07
FM AMEMBASSY BUENOS AIRES
TO RUEATRS/DEPT OF TREASURY WASHINGTON DC IMMEDIATE
RUEHC/SECSTATE WASHDC IMMEDIATE 6985
INFO RUEHAC/AMEMBASSY ASUNCION IMMEDIATE 5860
RUEHBR/AMEMBASSY BRASILIA IMMEDIATE 5704
RUEHMN/AMEMBASSY MONTEVIDEO IMMEDIATE 6083
RUCPDOG/USDOC WASHINGTON DC IMMEDIATE
RUEAIIA/CIA WASHINGTON DC IMMEDIATE
RUEABND/DEA HQS WASHINGTON DC IMMEDIATE
RHMFISS/DEPT OF HOMELAND SECURITY WASHINGTON DC IMMEDIATE
RHMFISS/DEPT OF JUSTICE WASHINGTON DC IMMEDIATE
RHEFDIA/DIA WASHINGTON DC IMMEDIATE
RHMFISS/HQ USSOUTHCOM MIAMI FL IMMEDIATE
RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC IMMEDIATE

C O N F I D E N T I A L BUENOS AIRES 000078

SIPDIS

SIPDIS

PASS NSC FOR CARDENAS, ZARATE
E FOR THOMAS PIERCE, WHA FOR WHA/BSC AND WHA/EPSC
STATE FOR S/CT -- NOYES
STATE FOR EB/ESC -- DAS SIMONS AND JEAN CLARK
STATE FOR EB/ESC/TFS - LEANNE CANNON
STATE FOR INL/C/CP (PETERSON), INR/EC, S//CT (HILL), IO/PSC
(SANDAGE)
TREASURY FOR TFFS (HEFFERNAN, VANLINGEN, KLOSKI), OFAC,
FINCEN
TREASURY FOR ALICE FAIBISHENKO
DHS FOR ICE -- D.THOMPSON
JUSTICE FOR OIA AND AFMLS
USDOC FOR ALEXANDER PREACHER AND JOHN ANDERSEN
US SOUTHCOM FOR POLAD
PASS FED BOARD OF GOVERNORS FOR PATRICE ROBITAILLE
PASS USTR FOR SUE CRONIN AND MARY SULLIVAN

E.O. 12958: DECL: 11/19/2026
TAGS: [KTFN](#) [EFIN](#) [PTER](#) [SNAR](#) [ETTC](#) [PREL](#) [AR](#)
SUBJECT: ARGENTINE PRESIDENT KIRCHNER SENDS
COUNTER-TERRORISM FINANCE DRAFT LAW TO CONGRESS

Classified By: AMBASSADOR E.A. WAYNE FOR REASONS 1.4 (B AND D).

Summary

1. (C) On December 20, Argentine President Kirchner sent the GoA's draft anti-terrorism and counter-terrorism finance bill to Congress. The GoA took this action in order to comply with Financial Action Task Force (FATF) demands, and avoid sanctions. Post lobbying contributed to this significant achievement. The draft criminalizes terrorism and terrorism financing and empowers law enforcement agencies to fight such crimes. It is unclear whether the draft -- which is modeled on German law -- meets FATF standards. First, to assuage vocal opponents within Congress, the GoA restricted the definition of acts of terror to exclude social protest. Second, the draft also excludes individual acts of terrorism by limiting application to groups of three or more persons, which is similar to German law and in accordance with Argentine Penal Code. Nevertheless, if passed, the law would represent a marked improvement to the existing legal, regulatory, and law enforcement framework. End Summary.

Kirchner Acts to Avoid FATF Sanctions

2. (C) President Kirchner's decision follows a lengthy internal debate over the draft law, and was motivated by the threat of FATF sanctions if it were not submitted to Congress prior to FATF's mid-February 2007 Plenary. Over the last six months, Juan Felix Marteau, the National Coordinator for

Anti-Money Laundering and Counter-Terrorism Finance (AML/CTF), who reports to the Justice Minister, evaluated over ten separate drafts before selecting the one currently before the Argentine Senate. Marteau told Econoff January 17 that Kirchner will consider calling an extraordinary session of Congress in February to move forward on this and other pending legislation.

¶3. (C) The threat of sanctions stems from the June 2006 FATF Plenary, during which FATF members granted Argentina six months to amend its money laundering law, develop a national AML/CTF strategy, and submit a terrorism finance bill to Congress. The possible penalties for noncompliance included a public statement that Argentina did not meet international CTF norms, or even suspension of the GoA membership in FATF. With the submission of this draft, the GoA appears to have fulfilled all three demands. What remains is for FATF members to decide during the February Plenary whether it conforms to FATF standards (which are based on the International Convention for the Suppression of the Financing of Terrorism).

Embassy Advocacy Efforts Help Overcome Opposition

¶4. (C) Embassy efforts (and those of other FATF member Embassies in Buenos Aires) helped convince Kirchner to support the bill. Kirchner faced strong opposition to the law from his own supporters in Congress, many of whom are ex-Monteneros and fought the government during the 1970s. These opponents are concerned that the law's attempt to define terrorism could potentially encompass social protest and acts of civil disobedience, such as those of the Monteneros in the 1970s or actions taken by current day street protestors, known as "Piqueteros." As late as

mid-December it was still unclear that Kirchner was prepared to override this resistance from within his own power base.

¶5. (C) The Ambassador made it an Embassy priority to counter this opposition, raising the issue with the Justice, Interior, and Economic Ministers, and Central Bank President.

In mid-December, when GoA resolve appeared to waiver, the Ambassador urged powerful Planning Minister Julio De Vido to help convince the President to support the draft, warning of the adverse impact FATF sanctions could have on Argentina's financial sector. In the Ambassador's presence, De Vido immediately called the President's Legal and Technical Secretary, Carlos Zannini, and recounted the Ambassador's

SIPDIS

arguments. Zannini said he would hold a meeting on the law later in the day.

Draft Criminalizes Terrorism and Terrorism Financing

¶6. (C) The draft law, which uses Germany's legislation as a model, amends the Argentine Penal Code to criminalize acts of terrorism and terrorism financing (making them autonomous crimes). It adds a new Chapter VI, titled "Illegal Terrorist Associations and Terrorism Financing," under Title VIII (Crimes Against Public Order) of the Penal Code. The draft imposes prison terms of five to twenty years for taking part in an "illegal association" with the goal of "committing terrorist crimes." It also imposes prison terms of five to fifteen years for financing "illegal terrorist associations."

...But Concerns Remain

¶7. (C) Two primary concerns have arisen during Post's consultations on the draft law with other FATF members, including the IMF's regional advisor on AML/CTF issues (based in Buenos Aires). First, Title VIII of the Penal Code defines "illegal associations" to include "Any person who is a member of any association or gang of three or more persons." Therefore, individual acts of terrorism are excluded. This does not conform to FATF standards. However,

we understand German law has similar limitations, and Germany remains a FATF member.

¶8. (C) Second, rather than just state that the law excludes forms of social protest or civil disobedience, the draft attempts to achieve this by limiting the characteristics of illegal associations to: 1) those that support ethnic, religious, or political hatred; 2) those organized in international network operations; and 3) those that use weapons of war, explosives, chemical or biological agents, or any other method used to endanger human life. (Note: this is an unofficial and incomplete translation. End Note). The IMF regional advisor is unsure whether this language meets FATF standards, and comments that FATF members will have to address this during the February Plenary.

Draft Empowers Law Enforcement Agencies

¶9. (C) The draft also amends Argentina's anti-money laundering legislation (Law 25.246 of May 2000) to grant the Argentine Financial Intelligence Unit ("Unidad de Informacion Financiera," or "UIF") the authority to take action to prevent the financing of terrorism -- equal to the authority

it already possesses with regards to money laundering. It also expands the list of predicate crimes for money laundering to include terrorism financing and the financing of activities of illegal terrorist associations. Finally, the draft authorizes the sanctioning of legal entities, such as banks, foreign exchange houses, and insurance companies, that provide financial support to illegal terrorist associations. (Comment: Likely the most important impact of a CTF law would be the legal support it gives to administrative measures the Central Bank and UIF have already imposed on financial entities. Without a law, banks are reluctant to comply with the Central Bank's mandated terrorism finance reporting and investigation requirements, for fear of being sued. End Comment).

Comment

¶10. (C) The Embassy agrees with the IMF and others that the GoA could have chosen a stronger law -- particularly the IMF and U.S. Treasury-supported law that the Central Bank originally proposed, which was based on French law. However, the GoA clearly chose the law that is most in accordance with the existing Penal Code and has the best chance of getting through Congress. Our GoA interlocutors, including National Coordinator Marteau, express confidence that FATF will accept this draft. No doubt Marteau will highlight its similarity to German legislation during the GoA presentation at the February Plenary.

¶11. (C) Regardless of its apparent shortcomings, passage of this law would significantly strengthen the existing legal, regulatory, and law enforcement framework. It also sends a message to society that the GoA assigns importance to fighting terrorism and terrorism financing. It remains to be seen whether the President will override influential interest groups during an election year and actively push for Congressional passage of the law. However, the fact that he submitted the draft while Congress was still in session, rather than during the January-February recess (as many local analysts expected), signals that the President is taking this seriously. Congressional passage of this legislation will remain a Post priority over the coming months. End Comment.

WAYNE